IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION NO : 13079 of 2004

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Between:

N.V.Subba Rao, S/o Venkata Subbaiah,

Person-in-Charge,Kovvur Gram Panchayat,

Kandukur Mandal,Prakasam District.

….. PETITIONER

AND

1. District Collector (Panchayat Wing), Prakasam District, Ongole.
2. Mandal Parishad Development Officer, Kandukur, Prakasam District.
3. K.Vasantha Rao, S/o. Not known to the petitioner, ,Kovvur village, Kandukuru Mandal, Prakasam District.
4. Sub Treasury Officer, Kandukur, Prakasam District.
5. Divisional Panchayat Officer, Kandukur, Prakasam District.

.....**RESPONDENTS.**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or Order or Direction more fully in the nature of Writ of Mandamus declaring the proceedings in ROC No.2881/95 (PTS AG), dt.8/7/2004 of the first respondent i.e., District Collector (Panchayat Wing) Prakasam District, Ongole, as illegal and unenforceable under the law, and direct the respondents not to interfere with the functioning of the petitioner as person-in-charge of Kovvur Gram Panchayat, Kandukur Mandal, Prakasam District.

Counsel for the Petitioner: MR.MADALANARASINGA RAO.

Counsel for Respondent Nos.1,2,4&5: G.P. for Panchayat Raj

Counsel for Respondent No.3: M/s. Satyanarayana

Nimmagadda.

The Court made the following ORDER:

The petitioner was elected as Sarpanch of Kovvur Gram Panchayat in Prakasam District. He was appointed as person in-charge. By proceedings dated 7-3-1996 of the first respondent presumably under Section 143 (3) of the A.P. Panchayat Raj Act, 1994 (for short 'the Act'). His term was extended from time to time. By impugned proceedings of the first respondent, one Mr.K. Vasantha Rao, the third respondent herein of Kovvur Gram Panchayat has been appointed as person in-charge removing the petitioner as person in-charge. Further, the Extension Officer (Panchayat Raj), Kandukur was requested to counter sign the cheques of the said Gram Panchayat. The said order is assailed in this writ petition.

The learned counsel for the petitioner Sri Madala Narasinga Rao raised two submissions. First he would urge that under Section 143(3) of the Act, no power vests in the first respondent to remove a person in-charge once appointed and appoint another person in the place of the petitioner. Secondly and alternatively, he submits that the impugned order is unfair and violates the principles of natural justice.

A reading of the impugned order would show that the Mandal Development Officer, Kandukuru village, submitted a report against the petitioner alleging acts of malfeasance and misfeasance and therefore, the impugned order came to be passed. When the petitioner is holding the office of person in-charge of Kovvur Gram Panchayat from March, 1996 and his term was extended from time to time in accordance with Section 143(4) of the Act, if he is removed and another person is appointed the same was certainly result in civil consequences, in which event, the first respondent ought to have given a notice to the petitioner duly enclosing a copy of the order of Mandal Development Officer. This infirmity vitiates the impugned order. Insofar as the submission of the learned counsel that the first respondent has no such power, it is settled that the power to appoint includes the power of reappointment and power to cancel the appointment. The submission therefore is de void of merits.

I have heard the learned Government Pleader for Panchayat Raj who does not dispute the legal position. Therefore, in stead of keeping the writ petition pending, the impugned order in Roc.No.2881.95(pts) A6, dated 8-7-2004 is set aside and the matter is remitted back to first respondent with a liberty to take action

as per the observations made hereinabove. If the petitioner is continuing as person in-charge of Kovvur Gram Panchayat, the same position shall continue until further orders are passed by the first respondent.

Accordingly the Writ Petition, with the above observations, is disposed of at the admission stage.

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V.V.S. RAO, J.

27th July, 2004

Js

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. District Collector (Panchayat Wing), Prakasam District, Ongole.
2. Mandal Parishad Development Officer, Kandukur, Prakasam District.
3. Sub Treasury Officer, Kandukur, Prakasam District.
4. Divisional Panchayat Officer, Kandukur, Prakasam District.
5. Two CCs to G.P. for Panchayat Raj, High Court Buildings, Hyderabad. (OUT)
6. 2 CD copies.